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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MIGUEL SOTO,

Plaintiff,

vs.

NAMU PROPERTIES CORPORATION;
and DOES 1 to 10,
Defendants.

Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR
VIOLATION OF:

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT, CAL CIV. CODE §§ 51 -
52 et seq.;
3. CALIFORNIA'S DISABLED
PERSONS ACT, CAL CIV. CODE §54 et
seq.
4. CALIFORNIA'S UNFAIR
COMPETITION ACT, CAL BUS & PROF
CODE § 17200, et seq.
5. NEGLIGENCE

Plaintiff MIGUEL SOTO ("Plaintiff") complains of Defendants NAMU
PROPERTIES CORPORATION; and DOES 1 to 10 ("Defendants") and alleges as
follows:

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JURISDICTION AND VENUE

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2 1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for
3 violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

4 2. Pursuant to pendant jurisdiction, attendant and related causes of action,
5 arising from the same nucleus of operating facts, are also brought under California law,
6 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,
7 54, 54., 54.3 and 55.

8 3. Venue is proper in this court pursuant to 28 USC §1391(b). The real
9 property which is the subject of this action is located in this district, Los Angeles County,
10 California, and Plaintiff's causes of actions arose in this district.

PARTIES

11
12 4. Plaintiff is a California resident with a physical disability. Plaintiff suffers
13 from multiple medical chronic conditions such as Dyslipidemia, Cerebral Vascular
14 Accident, Hemiparesis, Hypertension, Glaucoma and Benign Prostate Hyperplasia.
15 Plaintiff is substantially limited in his ability to walk and requires the use of a wheelchair
16 at all times when traveling in public.

17 5. Defendants are, or were at the time of the incident, the real property owners,
18 business operators, lessors and/or lessees of the real property of a liquor store
19 ("Business") located at or about 13916 Valley Blvd., La Puente, California.

20 6. The true names and capacities, whether individual, corporate, associate or
21 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,
22 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
23 Court to amend this Complaint when the true names and capacities have been
24 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such
25 fictitiously named Defendants are responsible in some manner, and therefore, liable to
26 Plaintiff for the acts herein alleged.

27 7. Plaintiff is informed and believes, and thereon alleges that, at all relevant
28 times, each of the Defendants was the agent, employee, or alter-ego of each of the other

1 Defendants, and/or was acting in concert with each of the other Defendants, and in doing
 2 the things alleged herein was acting with the knowledge and consent of the other
 3 Defendants and within the course and scope of such agency or employment relationship.

4 8. Whenever and wherever reference is made in this Complaint to any act or
 5 failure to act by a defendant or Defendants, such allegations and references shall also be
 6 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
 7 and severally.

8 **FACTUAL ALLEGATIONS**

9 9. In or about June of 2022 Plaintiff went to the Business. The Business is a
 10 liquor store business establishment, which is open to the public, is a place of public
 11 accommodation and affects commerce through its operation. Defendants provide parking
 12 space for customers.

13 10. While attempting to enter the Business during each visit, Plaintiff personally
 14 encountered a number of barriers that interfered with his ability to use and enjoy the
 15 goods, services, privileges, and accommodations offered at the Business. To the extent
 16 of Plaintiff's personal knowledge, the barriers at the Business included, but were not
 17 limited to, the following:

- 18 a. Defendants failed to maintain the parking space designated for
 19 persons with disabilities to comply with the federal and state
 20 standards. Defendants failed to maintain the mark on the space with
 21 the International Symbol of Accessibility.
- 22 b. Defendant failed to maintain the parking space designated for persons
 23 with disabilities to comply with the federal and state standards.
 24 Defendants failed to provide the access aisles with level surface
 25 slopes.
- 26 c. Defendant failed to maintain the parking space designated for persons
 27 with disabilities to comply with the federal and state standards.

1 Defendants failed to provide a proper ramp for the persons with
2 disabilities.

3 11. These barriers and conditions denied Plaintiff the full and equal access to the
4 Business. Plaintiff wishes to patronize the Business again. However, Plaintiff is deterred
5 from visiting the Business because his knowledge of these violations prevents him from
6 returning until the barriers are removed.

7 12. Based on the violations, Plaintiff alleges, on information and belief, that
8 there are additional barriers to accessibility at the Business after further site inspection.
9 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-
10 Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

11 13. In addition, Plaintiff alleges, on information and belief, that Defendants
12 knew that particular barriers render the Business inaccessible, violate state and federal
13 law, and interfere with access for the physically disabled.

14 14. At all relevant times, Defendants had and still have control and dominion
15 over the conditions at this location and had and still have the financial resources to
16 remove these barriers without much difficulty or expenses to make the Business
17 accessible to the physically disabled in compliance with ADDAG and Title 24
18 regulations. Defendants have not removed such barriers and have not modified the
19 Business to conform to accessibility regulations.

20 **FIRST CAUSE OF ACTION**

21 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

22 15. Plaintiff incorporates by reference each of the allegations in all prior
23 paragraphs in this complaint.

24 16. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
25 shall be discriminated against on the basis of disability in the full and equal enjoyment of
26 the goods, services, facilities, privileges, advantages, or accommodations of any place of
27 public accommodation by any person who owns, leases, or leases to, or operates a place
28 of public accommodation. *See* 42 U.S.C. § 12182(a).

17. Discrimination, *inter alia*, includes:

- a. A failure to make reasonable modification in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden. 42 U.S.C. § 12182(b)(2)(A)(iii).
- c. A failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- d. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the

1 bathrooms, telephones, and drinking fountains serving the altered
2 area, are readily accessible to and usable by individuals with
3 disabilities where such alterations to the path or travel or the
4 bathrooms, telephones, and drinking fountains serving the altered
5 area are not disproportionate to the overall alterations in terms of cost
6 and scope. 42 U.S.C. § 12183(a)(2).

7 18. Where parking spaces are provided, accessible parking spaces shall be
8 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every
9 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in
10 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA
11 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall
12 be van parking space. 2010 ADA Standards § 208.2.4.

13 19. The surface of each accessible car and van space shall have surface
14 identification complying with either of the following options: The outline of a profile
15 view of a wheel chair with occupant in white on a blue background a minimum 36” wide
16 by 36” high (914 mm x 914 mm). The centerline of the profile view shall be a maximum
17 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the
18 length of the parking space and its lower side or corner aligned with the end of the
19 parking space length or by outlining or painting the parking space in blue and outlining
20 on the ground in white or a suitable contrasting color a profile view of a wheel chair with
21 occupant. *See* CBC § 11B-502.6.4, *et seq.*

22 20. Here, Defendants failed to maintain the mark on the surface with the
23 International Symbol of Accessibility as required.

24 21. Under the 1991 Standards, parking spaces and access aisles must be level
25 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.
26 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles
27 shall be part of an accessible route to the building or facility entrance and shall comply
28 with 4.3. Two accessible parking spaces may share a common access aisle. Parked

1 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces
2 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all
3 directions. 1991 Standards § 4.6.3.

4 22. Here, the access aisle is not level with the parking space. Under the 2010
5 Standards, access aisles shall be at the same level as the parking spaces they serve.
6 Changes in level are not permitted. 2010 Standards § 502.4. “Access aisles are required
7 to be nearly level in all directions to provide a surface for transfer to and from vehicles.”
8 2010 Standards § 502.4 Advisory. *Id.* No more than a 1:48 slope is permitted.

9 23. The cross slope of ramp surfaces shall be no greater than 1:50. Ramp
10 surfaces shall comply with 4.5. 1991 Standards § 4.8.6. Ramps and landings with drop-
11 offs shall have curbs, walls, railings, or projecting surfaces that prevent people from
12 slipping off the ramp. Curbs shall be a minimum of 2 in (50 mm) high. 1991 Standards §
13 4.8.7. Outdoor ramps and their approaches shall be designed so that water will not
14 accumulate on walking surfaces. 1991 Standards § 4.8.8. Ground and floor surfaces
15 along accessible routes and in accessible rooms and spaces including floors, walks,
16 ramps, stairs, and curb ramps, shall be stable, firm, slip-resistant, and shall comply with
17 4.5. 1991 Standards § 4.5.1.

18 24. Here, Defendants failed to provide a compliant ramp for the access aisle.

19 25. A public accommodation shall maintain in operable working condition those
20 features of facilities and equipment that are required to be readily accessible to and usable
21 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a). By failing to
22 maintain the facility to be readily accessible and usable by Plaintiff, Defendants are in
23 violation of Plaintiff’s rights under the ADA and its related regulations.

24 26. The Business has denied and continues to deny full and equal access to
25 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be
26 discriminated against due to the lack of accessible facilities, and therefore, seeks
27 injunctive relief to alter facilities to make such facilities readily accessible to and usable
28 by individuals with disabilities.

SECOND CAUSE OF ACTION

VIOLATION OF THE UNRUH CIVIL RIGHTS ACT

27. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

28. California Civil Code § 51 states, “All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”

29. California Civil Code § 52 states, “Whoever denies, aids or incites a denial, or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

30. California Civil Code § 51(f) specifies, “a violation of the right of any individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.”

31. The actions and omissions of Defendants alleged herein constitute a denial of full and equal accommodation, advantages, facilities, privileges, or services by physically disabled persons within the meaning of California Civil Code §§ 51 and 52. Defendants have discriminated against Plaintiff in violation of California Civil Code §§ 51 and 52.

32. The violations of the Unruh Civil Rights Act caused Plaintiff to experience difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory damages as specified in California Civil Code §55.56(a)-(c).

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA DISABLED PERSONS ACT

33. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

34. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, loading places, places of public accommodations, amusement, or resort, and other places in which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

35. California Civil Code § 54.3(a) states, “Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages, and any amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 54, 54.1, and 54.2.

36. California Civil Code § 54(d) specifies, “a violation of the right of an individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also constitute a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

1 37. The actions and omissions of Defendants alleged herein constitute a denial
2 of full and equal accommodation, advantages, and facilities by physically disabled
3 persons within the meaning of California Civil Code § 54. Defendants have
4 discriminated against Plaintiff in violation of California Civil Code § 54.

5 38. The violations of the California Disabled Persons Act caused Plaintiff to
6 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
7 statutory damages as specified in California Civil Code §55.56(a)-(c).

8 **FOURTH CAUSE OF ACTION**

9 **UNFAIR COMPETITION ACT**

10 39. Plaintiff incorporates by reference each of the allegations in all prior
11 paragraphs in this complaint.

12 40. Defendants have engaged in unfair competition, unfair or fraudulent
13 business practices, and unfair, deceptive, untrue or misleading advertising in violation of
14 the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

15 41. Defendants engage in business practices and policies that create systemic
16 barriers to full and equal access for people with disability in violation of state and federal
17 law.

18 42. The actions and omissions of Defendants are unfair and injurious to
19 Plaintiff, a consumer of the Business' goods and services. As a result of Defendants'
20 unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not
21 provided with goods and services provided to other consumers. Plaintiff seeks relief
22 necessary to prevent Defendants' continued unfair business practices and policies and
23 restitution of any month that Defendants acquired by means of such unfair competition,
24 including profits unfairly obtained.

25 **FIFTH CAUSE OF ACTION**

26 **NEGLIGENCE**

27 43. Plaintiff incorporates by reference each of the allegations in all prior
28 paragraphs in this complaint.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: September 8, 2022

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim
Jason J. Kim, Esq.
Attorneys for Plaintiff